

A

REVIEW

OF THE

STATE

OF THE

BRITISH NATION.

Saturday, February 11. 1710.

IN the Case of Bankrupts, I suggested two Enquiries in my last, which I humbly recommended to those, in whose Hands the Power of redressing this mighty Grievance remains.

1. Whether it be consistent with Humanity or Christianity, to put Men into Prison in Case of Debt *for Life*, when they are willing to surrender All they have in the World to their Creditors, and when they have not Bread to keep them from starving in their Confinement?
2. Whether such Imprisonment be consistent with the *Claim of Right*, which says, that *Exorbitant Punishments are Illegal*?

I do not say, That the Affirmative of these Things is true—I will not be charg'd with flying in the Face of the Law, *much less of the Law-makers*; but there have been Laws repeal'd—There have been Acts of Parliament, which the same Parliament that made them have found inconvenient, and have therefore thought fit to rectifie, explain, amend, and repeal—Inconvenience may appear after a Law is made, which even to Parliaments did not appear before, and our Parliaments always allow'd the Subject humbly to represent those Inconveniencies, that may be redress'd; for as no Body of Men in the World are infallible, so the Parliaments of *Britain* make no Pretences to that ridiculous Imagination, nor does

does it ever displease them to have the World told so.

I describ'd the Debtor I am speaking of in my last, and I shall frequently revive his Character; for I know who I have to do with, and how ready some will be to clamour, as if I were encouraging Men to Frauds, and pleading for a general Lenity to Bankrupts, under whatever Circumstances: If it were in my Power to procure Laws against fraudulent Bankrupts, Clippers and Coyners, Highway-men and House-breakers would find more Mercy from Mankind than these; and if such were under the Sentence of Death, I would relieve any thing but a Murderer, before them. They are first the Ruin of honest Men, and then the Preventers of their restoring; like a malicious Murderer, who first having wounded a Man, prevents his being cur'd—they ruin Men by getting into their Debt, and they prevent their being restor'd, by making the World believe, others break fraudulently as they do.

These are Men of Mischief so many Ways, that no honest Man can desire good Terms for them—But 'tis very hard—indeed very hard, that because there are such Villains as these in the World, therefore no Concern, no Compassion, no Mercy should be shown to the Men, who being reduc'd by no visible Fraud of their own, but unhappily are overthrown in the World, and are willing to give up All they are able to make Satisfaction for their Debts—To punish these Men, to prevent their restoring themselves by their Industry, and mingle them with Thieves and Cheats—is an Act beyond the Cruelty of Death; it never was Criminal to be Unhappy. Debt was no where, that ever I read of, punish'd with Death before—No Law of Men ever directed it, and the Law of GOD is directly against it—Nay, the Scripture seems to command Pity and Compassion to such Men—If he has nothing to pay, if he cannot, if it be not in his Power, *Why should you take his Bed from under him?* How can you be so cruel, so inhuman, so barbarous!

But we go farther, We take the Bed from the Man, and the Man from his Bed—

We strip his miserable Family, and turn his Wife and Children naked into the Streets to starve; be the Man never so indigent; nay, if he has a Fever upon him, if he be sick in his Bed, we will take him away, carry him to Gaol, lay him on the bare Boards, and if he has not to feed him, he must starve and perish—I wish, the Parliament would command to be laid before them an Account of the Hardships suffer'd the last severe Winter in our Prisons, by poor Insolvents imprison'd by Escape-Warrants, and how many of them have perish'd with Cold and Hunger. I have had some Accounts of these Things, as would make the Heart of any Christian bleed within him—While inexorable Creditors have not been mov'd to show the least Compassion—and have almost grow'd to see the miserable Corps carry'd out of Prison to the Grave.

The Law is a Medium in all other Cases, between the Offender and the Offended; if a Thief robs me, if an Enemy beats me, it is not in my Breast what Punishment he shall have, but the Law decides it, and takes him out of my Hands—And we say to one another, What have you to do with him, he has satisfy'd the Law? And 'tis very just that it should be so, because Man is a furious, passionate Creature, and cannot set Bounds to his Revenge. But here the miserable Debtor (the Offender) is put into the Hands of the Creditor (the Offended), and he has him in his Power; if he pleases, *he may let him go*; if he pleases not, *he must die* in Misery and a Gaol—This really seems contrary to the Nature and Meaning of LAW, and at least gives a single Person the absolute Dominion over his Neighbours Life; a Thing, *English Liberty*, I think, was never subjected to before—This is my second Article. And,

This is the Thing, that I cannot but hope, the Parliament will enquire into, when they shall please to consider the Laws relating to Bankrupts in *England*—Whether it is agreeable to our Constitution, to the Liberty of *English Men*, I do not say *Britains* in this, for in *Scotland* it is quite otherwise; the only Thing in which they enjoy a Liberty we do not—The Claim of Right says expressly, that Exorbitant

Exorbitant Punishments are illegal, and in other Cases a Man is not to be fin'd *ultra Tenementum*, but by the Act of Parliament, which we call vulgarly *the Escape-Warrant Act*, the Man is put into the Mercy of his Creditor, who, if he pleases, condemns him to perpetual Imprisonment; this I call putting him to Death by *Immuring*; for if the Man have it not to pay, *as many really have not*, and if the Creditor have no Compassion, *as really some have not*, it is nothing less—And I cannot but think, would the *House* review this Law, they would be moved to Compassion by the Miseries of those that languish under it—To think of some milder Way to treat the *English* Subject, than sacrificing them thus to the ungovern'd Rage of one another.

In the *Israelites* Law, the great Original of Statuted Justice, the Debtor was to be sold for Satisfaction of the Creditor, and then he had as full Payment as it could be imagin'd, any Man could desire—And then at the End of the Term the Man was free. This had two Pieces of Justice in it.

First, To the Creditor— *Secondly*, To the Debtor.

1. To the Creditor it was a Justice, that when the Debtor had no Goods to satisfy the Creditor, he should work for him a certain Number of Years, in order to pay the Debt— And this was the uttermost Severity that ever GOD Himself allow'd; *Of which by it self.*

2. To the Debtor, that having thus been sold, and having serv'd the Legal Time, the Law suppos'd the Creditor satisfy'd, or at least pacify'd, and the Man was then to have leave to go free, that he might labour then for Himself and Family, or as we call it, that he might try his Fortune in the World again.

How much milder, how much juster, and how much sooner it would be chosen by the miserable Bankrupts now languishing in Gaol, whether on the publick or private Account of Debt, rather than the present Method of Confinement on this most terrible Escape-Warrant, I shall examine in my next.

MISCELLANEA.

I Have spoke a Word or two about a Bill depending in Parliament, for securing the Properties of Books, and Encouragement of Learning, &c. It has been long the Expectation of honest Men to see such a Thing promoted in the *House*— And as I see no Law more just, so indeed none is at present more needful—And yet we see it sticking in the Birth, and very few solicit its bringing forth.

And what are the mighty Objections against a Law so wholesome, so necessary, and so much wanted? I find among other, two of the most scandalous Reasons given for it, that have been seen in this Age; I hope they are not true— If they are, they give a Testimony of the most abandoned Temper to all Manner of Oppression, which our Times swell with, and which may justly reproach us with owing all our good Laws to our Ancestors, and seeking but few of our own.

The first Reason, I hear given, is, That if the Property of Books is secur'd, the Price will be greater, and Books will not be cheap. This is *first* no good Reason, if it were true; and *secondly* no good Reason, *because it is not true.*

First, If the Matter of Fact be true, if Learning is depreciate, if Authors are discourag'd, if several excellent Tracts and elaborate Works are written, and finish'd, and thrown by, because Men will not send them into the World for Nothing, and will not suffer them to be abus'd by Pyrates, and both the Author and the Buyer cheated; if most of the lately publish'd Volumes of any Moment, such as Travels, Histories, Translations, &c. are the Works of Hirelings, Slaves to the Booksellers, ignorant and incapable, and who writing not for Bread, but almost without Bread—Make up voluminous Collections and long Citations to
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